

THE HON'BLE SRI JUSTICE V.V.S.RAO

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WRIT PETITION No.2063 of 2003

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Dated : 05.07.2007

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Between:

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Kalagara Anasuya W/o Venkata Rao

...PETITIONER

And:

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The Secretary to Government of A.P.,
Tribal Welfare Department,
A.P. Secretariat, Hyderabad and others.

... RESPONDENTS

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THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.2063 of 2003

ORDER:

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Petitioner allegedly purchased the land admeasuring Acs.1.50 in R.S.No.83 situated at Lakshmudugudem village of Buttayagudem Mandal in West Godavari District, under an agreement of sale dated 25.12.1968 from Palnati Naganna. On a complaint given by the Special Deputy Tahsildar (Tribal Welfare), Eluru, third respondent herein, namely, Special Deputy Collector (Tribal Welfare), Kotaramachandrapuram, initiated action under the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959, as amended by Regulation No.1 of 1970 (Regulation, for brevity). The said proceeding, being S.R.No.168 of 1981, was dropped by an order dated 29.05.1992. Yet again, in 1996 third respondent initiated action under the Regulation in S.R.No.120 of 1996. By an order dated 26.11.1996, the petitioner was ordered to be ejected from the land admeasuring Acs.1.06. Petitioner then filed an appeal, being S.R.A.No.2 of 1997, before the second respondent, who dismissed the same on 10.09.2001. Petitioner then filed a revision petition before the first respondent, who agreed with the orders of the second respondent and dismissed the revision. This order of the Government in G.O.Ms.No.122 dated 13.11.2002 is assailed in this writ petition.

Though the writ petition was admitted on 14.02.2003, no counter affidavit is filed by the respondents.

Learned counsel for the petitioner submits that third respondent initiated action in S.R.No.168 of 1981 and dropped the action and therefore, initiation of action again under the Regulation in S.R.No.120 of 1996 is hit by the principle of *res judicata*. Secondly, he submits that petitioner purchased the property under an agreement of sale dated 25.12.1968 and that she produced evidence to show that the transaction between her and Palnati Naganna was prior to coming into force of Regulation 1 of 1970 and therefore, the orders passed by the respondents are without jurisdiction. He also placed reliance on the judgment of a Division Bench of this Court in **Chintalapati Ramalinga Raju v. District Collector, Eluru**^[1], and an unreported judgment of this Court in W.P.No.17318 of 2001 dated 05.01.2006 (Kalagara Vighneswara Rao v. Government of Andhra Pradesh). **Opposing** the writ petition, learned Government Pleader for Social Welfare points out that after receiving notice in S.R.No.120 of 1996, the husband of the petitioner appeared and deposed that his family has nothing to do with the land admeasuring Acs.1.06 in R.S.No.84/1-A situated at Lakshmudugudem village and therefore, the order passed earlier has no bearing on the present case. Secondly, he submits that except filing the agreement of sale executed on white papers, no documentary evidence was led before the original authority as well as the appellate authority to prove the contention that the transaction dates back prior to Regulation 1 of 1970.

The original authority as well as the appellate authority noticed the fact that the petitioner's husband appeared before the original authority and deposed that they have nothing to do with the land in R.S.No.84/1-A admeasuring Acs.1.06. Therefore, it would not be possible to accept that the subsequent proceedings are hit by the principle of *res judicata*. Secondly, the petitioner produced her agreement of sale dated 25.12.1968, and as found by the appellate authority, the same would not be of no avail to the petitioner as an agreement of sale does not confer any title. There is no strong reason to differ from this view. As seen from the orders passed by all the authorities, the petitioner, on one hand, disclaimed the land and on the other hand, again set up an agreement of sale along with some mutation record. This only shows that the petitioner is going on changing the stand whenever the matter is called before different authorities. In this background, this Court does not find any infirmity in the impugned order passed by the Government.

The writ petition is accordingly dismissed. There shall be no

order as to costs.

(V.V.S.RAO,J)

5th July, 2007.
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[\[1\]](#) 2000(4) ALD 443 (DB)